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77TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1290

WESLIE A. COULTER, SR.

APRIL 30, 1942.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 5275]

The Committee on Claims, to whom was referred the bill (H. R. 5275) for the relief of Weslie A. Coulter, Sr., having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1983, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1983, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5275) for the relief of Weslie A. Coulter, Sr., having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Line 6, strike out the figures "\$10,000" and insert in lieu thereof "\$5,000".

The purpose of the proposed legislation is to pay to Weslie A. Coulter, Sr., the sum of \$5,000 on account of the death of his son, who was killed on September 20, 1940, near Newport News, Va., when a motorcycle which he was operating was struck by a United States Army truck.

STATEMENT OF FACTS

On September 20, 1940, an Army truck on official business, operated by an enlisted man, with another enlisted man as passenger, was proceeding in a westerly direction on Kecoughtan Road in Hampton, Va., at an excessive rate of speed, and approaching the intersection of Kecoughtan Road and LaSalle Avenue; that at about the same time, Weslie A. Coulter, Jr., of Hampton, Va., was proceeding in the opposite direction on the same road, and approaching the aforesaid intersection; apparently seeing the Army truck approaching at a great distance away, and underestimating the speed of the approaching truck, he started to make a left-hand turn; that after starting his turn, and observing that he could not complete same in safety, he returned to his own side of the highway, whereupon he stopped his motorcycle to await the passing of the Army truck; that the Army truck driver, observing the intention of Coulter, and traveling at such a rate of speed that it was impossible for him to control the motion of his truck, swung to his left, striking Coulter's motorcycle, throwing him to the ground, and causing injuries from which he died at 11 p. m. on the following day. The War Department, in report to the committee dated October 14, 1941, recommends:

"After careful consideration of the evidence adduced in this case, it is the view of the War Department that Weslie A. Coulter, Jr., came to his death through no fault or negligence on the part of the Government driver but rather through his own negligence, in that he attempted to make a left turn in the face of oncoming traffic without giving any signal to indicate his intention and without first assuring himself that such a movement could be completed in safety. While, therefore, the Department deeply regrets this tragic occurrence, it is constrained to recommend that the proposed legislation be not given favorable consideration."

Your committee, after carefully considering the facts and merits of this case, is of the opinion that the accident was caused by the negligence of the War Department driver and not negligence on the part of Weslie A. Coulter, the deceased. In answer to the War Department's statement that Coulter was negligent in that he attempted to make a left turn in the face of oncoming traffic without giving any signal to indicate his intention, and without first assuring himself that such a movement could be completed in safety, your committee call attention to the fact that Mr. Coulter, while he did not give a signal of his intention to make a left turn, did not make the turn, although he started same, but returned to his own side of the highway; that, if the Government truck was not being driven at an excessive rate of speed, and if the vehicle had been under control, it does not appear from the file why the truck could not have continued along its own side of the highway, uninterrupted. Although the War Department contends that the truck was not driven at an excessive rate of speed, and submits affidavits from the driver of the truck and others, one of whom was Capt. James Trimble Kelley, who states that after the accident, he tested the Government vehicle, and found that it was controlled by a governor, and could not exceed the speed of 40 miles per hour. Your committee cannot concur in these affidavits. It may be noted that tire marks made by the wheels of the Government truck after the brakes were applied were visible on the pavement for a distance of 121 feet; that also the truck after hitting Mr. Coulter's motorcycle was still traveling at about 10 miles per hour, and that scratches on the highway caused by the truck dragging the motorcycle were visible for approximately 19 feet. Your committee carefully checked charts which show the speed of trucks and automobiles by the distance of skid marks, and it was found that for a 10-wheel truck to skid a distance that the Army truck in this case skidded, a speed of approximately between 50 and 65 miles per hour would be necessary. The Government driver and his passenger both stated that the motorcycle struck the left front side of the truck. Your committee cannot see how the motorcycle could strike the side of the Army truck, and then bounce around in front and under the truck in order that it be the front axle of the truck that dragged Mr. Coulter's motorcycle.

Appended hereto is the report of the War Department, together with other pertinent evidence, as follows:

WAR DEPARTMENT,
Washington, October 14, 1941.

HON. DAN R. McGEHEE,
Chairman, Committee on Claims, House of Representatives,
Washington, D. C.

DEAR Mr. McGEHEE: The War Department is opposed to the enactment of H. R. 5275, Seventy-seventh Congress, which would pay to Weslie A. Coulter, Sr., the sum of \$10,000 in full satisfaction of all claims against the United States on account of the death of his son, Weslie A. Coulter, Jr., who was killed on September 20, 1940, near Newport News, Va., in an accident involving an Army truck.

On September 20, 1940, at about 4:15 p. m., an Army truck, on official business, operated by an enlisted man, with another enlisted man as passenger, was proceeding in a westerly direction on Kecoughtan Road, in Hampton, Va., at an undetermined rate of speed and approaching the intersection of Kecoughtan Road and LaSalle Avenue. At about the same time a motorcycle, owned and operated by Wesley A. Coulter, Jr., of Hampton, Va., was proceeding in the opposite direction on the same street and approaching the aforesaid intersection. The weather was fair and the road paved and dry. It appears that as Mr. Coulter neared the intersection, without giving any signal to warn of his intention to turn, he swung his motorcycle to his left, crossing the double white lines that marked the center of the road at that point, with a view to making a left turn into LaSalle Avenue; that the Army driver, observing this maneuver on the part of Mr. Coulter, immediately applied his brakes and turned his vehicle to his left, in an effort to avoid a collision; that Mr. Coulter, apparently believing that he would be unable to complete his intended left turn in safety, then swung his vehicle back to the right; and that the two vehicles thereupon met in a head-on collision. Tire marks made by the wheels of the Government vehicle after the brakes were applied were visible on the pavement for a distance of 121 feet.

As a result of the accident, Mr. Coulter's motorcycle was almost completely demolished and Mr. Coulter suffered a fractured skull, a fracture of the fibula of the left leg, lacerations about the kneecap of the left leg, and an abrasion of the right arm, from which injuries he died at 11 p. m. on the following day at the Dixie Hospital, Hampton, Va., where he had been taken for treatment immediately after the accident. No statement by a physician concerning the injuries suffered by Mr. Coulter, nor any information with respect to the expenses incurred as a result thereof, is of record in the War Department.

Before the investigating officer who conducted an investigation of the accident and likewise at the coroner's inquest, the Government driver and the enlisted man who was riding with him testified in effect that the Government vehicle approached the intersection at a speed of about 30 miles per hour; that when the Government driver observed the approach of the aforesaid motorcycle and saw that Mr. Coulter was starting a left turn, which would bring him directly into the path of the Government vehicle, the Government driver immediately applied his brakes and endeavored to avoid a collision by swinging his vehicle to his left; that Mr. Coulter, realizing that a collision was imminent, tried to regain his proper side of the road by turning to his right but met the Government vehicle head-on; that at the moment of impact the speed of the Government truck was about 5 miles per hour; that Mr. Coulter did not give a hand signal to indicate his intention of making a left turn.

The only disinterested eyewitness to the accident who could be found and who, at the time of the accident, was sitting on the porch of his house, situated at the southwest corner of the intersection, testified before the investigating officer that he first noticed the two vehicles concerned when they were about 100 feet apart; that the speed of the Government vehicle was not in excess of 35 miles per hour; that the man on the motorcycle was going to turn left into LaSalle Avenue, but discovered that he couldn't make it and tried to get back to his side of the road; that the driver of the Government vehicle gave way to the left to avoid striking the motorcyclist, but that at the same time the latter, trying to get back onto the right side of the road, ran into the truck. He further testified that the conduct of the Government driver was in conformity with the laws of the State of Virginia, and that said driver made every effort humanly possible to avoid striking the motorcyclist; that, at the instant of impact, the speed of the truck was not in excess of 5 miles per hour. The testimony of this witness at the coroner's inquest was substantially the same as above, excepting that he stated as about 200 feet the distance separating the two vehicles when he first noticed them, rather than 100 feet.

To support a contention that the proximate cause of the accident was excessive speed on the part of the Government driver, affidavits, executed on June 6, 1941, more than 8 months subsequent to the date of the accident, have been submitted by a number of persons, including the following:

An automobile mechanic, who stated, in part, that he operated a garage and service station on Kecoughtan Road, about one-half mile from the intersection of Kecoughtan Road and LaSalle Avenue; that on September 20, 1940, at about 4:30 p. m., he received a message to go to the said intersection and bring in a motorcycle that had been damaged in an accident; that about 25 minutes before he received this call an Army truck similar to the one involved in the accident had gone past his place of business at "a terrific rate of speed"; that it was being operated in a reckless and careless manner, passing all the traffic on the road at the time; that the said truck was traveling at a speed of from 65 to 70 miles per hour; that he was satisfied that it was the same truck that later struck the motorcycle; that, in his opinion, it would be impossible to skid a 10-wheel truck with the brakes working properly for as great a distance as this truck skidded at any speed less than 70 miles per hour.

A beer salesman, who stated that on September 20, 1940, at about 4 p. m., he was driving his truck toward Hampton on the Kecoughtan Road; that an Army truck passed him going at "a terrific rate of speed"; that he himself was driving at a speed of at least 50 miles per hour and the Army truck left him very rapidly; that a conservative estimate of its speed would be 65 to 70 miles per hour; that he slowed down to turn in at Crystal Gardens and the truck was then at a distance of about 350 feet from the point where it later crashed into the motorcycle and that it had not slowed down at all; that it was just a matter of a few seconds after he turned in before he heard the crash resulting from the impact between the truck and the motorcycle. This witness had, however, previously testified at the coroner's inquest that he was driving at a speed of 40 miles per hour when the truck passed him and that the speed of the truck was 45 or 50 miles per hour.

An employee of the aforementioned beer salesman, who was riding on the beer truck, and who stated that he was sure they were traveling at a speed of at least 50 miles per hour when a large Army truck passed them "as if we were standing still"; that he was sure the Army truck must have been traveling at a speed of from 65 to 70 miles per hour, because it left them so fast, even though they were driving at a speed in excess of 50 miles per hour.

A county police officer, who reached the scene of the collision shortly after it had occurred and who, basing his opinion upon the skid marks left by the Government vehicle, stated that a very conservative estimate of the speed of the said vehicle would be at least 50 miles per hour.

On the other hand, an Army officer, detailed as base investigating officer for accidents involving Government motor vehicles, testified that after the accident he examined the Government truck, which was equipped with a governor, and found that the speed of the truck, with the throttle held wide open for a distance of a half to three-quarters of a mile, was between 38 and 40 miles per hour.

The Government driver was arrested on a charge of manslaughter, but the case was ordered dismissed on September 30, 1940, upon recommendation by the attorney for the Commonwealth of Virginia.

At an inquest held at Hampton, Va., the coroner found that Wesley A. Coulter had come to his death of a fractured skull, after an automobile and motorcycle accident on October (September) 20, 1940; that the accident was unavoidable; and that he (the coroner) did not feel that there was any criminal negligence involved.

The investigating officer found that the accident was caused by three violations of the traffic laws of the State of Virginia on the part of Wesley A. Coulter, Jr., namely:

(a) That he did not extend his left arm giving the signal for a left turn at any time, and for a distance of 50 feet, as required.

(b) That he cut the white line to make a left turn before coming to the intersection.

(c) That he did not proceed at a slow rate of speed to the center of the intersection of Kecoughtan Road and LaSalle Avenue and then make a slow left-hand turn, staying in his own lane as required by the State laws of Virginia.

Attention was also called by the investigating officer to the fact that the law further states that a man must not only give the signal and be in the proper lane, but must see that the turn can be executed in safety.

A claim was filed with the War Department by Weslie A. Coulter, Sr., in the amount of \$10,000 for the death of his son. A board of officers which investigated

Mr. Coulter's claim found that evidence of competent witnesses clearly showed that the driver of the Government truck was in no way negligent but, on the other hand, had done everything within his power to avoid the accident; that the driver of the motorcycle was negligent in that he did not come to a full stop before attempting a left turn; that he crossed the double white center line before coming to the intersection and then turned right again into the path of the oncoming truck which had swerved to its left to avoid hitting the motorcycle; that there was only one eyewitness to the collision other than those directly involved and that his testimony showed that the driver of the motorcycle was at fault while the driver of the truck was not. In view of the introduction of the bill herein under consideration, H. R. 5275, no further action will be taken on Mr. Coulter's claim.

According to information of record in the War Department, Wesley A. Coulter, Jr., was 23 years of age at the time of his death. No information is available as to the names, ages, relationship, and extent of dependency of any survivors left by him, excepting that his father, Wesley A. Coulter, Sr., is 56 years of age, is in poor health, and had been in receipt of a certain amount of financial help from his son, on whom he was dependent for support. When further information in this connection is secured, it will be furnished to the committee.

After careful consideration of the evidence adduced in this case, it is the view of the War Department that Wesley A. Coulter, Jr., came to his death through no fault or negligence on the part of the Government driver but rather through his own negligence, in that he attempted to make a left turn in the face of oncoming traffic without giving any signal to indicate his intention and without first assuring himself that such a movement could be completed in safety. While, therefore, the Department deeply regrets this tragic occurrence, it is constrained to recommend that the proposed legislation be not given favorable consideration.

A copy of the report of the board of officers is enclosed for the information of the committee.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

AFFIDAVIT OF WESLIE A. COULTER, SR.

STATE OF VIRGINIA,
City of Newport News, to wit:

I, Weslie A. Coulter, Sr., being first sworn the truth to speak, do depose and say:

That I am the father of Weslie A. Coulter, who was killed when an Army truck struck the motorcycle on which he was riding on September 20, 1940.

That the motorcycle was proceeding from Hampton to Newport News on Kecoughtan Road, and that the Army truck was proceeding on the same road toward Hampton, Va.; that at the intersection of Kecoughtan Road with LaSalle Avenue, the Army truck struck the motorcycle which was being driven by Weslie A. Coulter; that all of the evidence indicates that the motorcycle had come to a stop, pulled to the center of the lane, preparing to make a left-hand turn; that the Army truck skidded 121 feet, struck the motorcycle which had entered the intersection a distance of 27 feet, and dragged the motorcycle along the center of the road for a distance of 19 feet, leaving deep cuts in the cement bed of the road.

That I am 58 years of age, in poor health; that I have recently been rejected for civil-service employment because of my health. My hearing is particularly bad, necessitating the use of a mechanical-hearing aid; that I furnished all the funds for my son's education at the University of Minnesota, where he was a student for 4 years and the approximate cost of his university education to me was approximately \$4,000. For 2 years immediately after his graduation he was employed at the university while he was doing post-graduate work as an assistant professor, during which time all of his earnings were turned over to me; that at the time of his death he had been employed at the National Advisory Committee of Aeronautics at Langley Field, Va., as an engineer for 1 month. That for 2 months prior to that he had been employed at Wright Motors, at Paterson, N. J.; that during this time he sent me approximately 55 percent of his income. That we had a definite understanding that he was to continue to make monthly payments to me because he knew that I was dependent on him. My earnings being insufficient to take care of my needs.

My physician advises me that my bad hearing has been aggravated by the nervous strain under which I have been living since my son's death, and that in all probability I will lose my hearing entirely. That I am a mechanic by trade

and will be greatly handicapped in my work as a result of the loss of my hearing, and my earnings will consequently be greatly diminished. I have made application for employment at two of the defense projects under the United States Civil Service and have been rejected in both instances because of my physical condition. The notice received by me of my rejection is attached hereto. I was rejected in spite of the fact that I am entitled to military preference.

WESLIE A. COULTER, Sr.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for the State and city aforesaid, do certify that Weslie A. Coulter, Sr., has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

[SEAL]

JOHN ABBITT.

My commission expires 17th of February 1943.

AFFIDAVIT OF H. O. SCHEY

STATE OF VIRGINIA,

City of Newport News, to wit:

I, H. O. Schey, being first sworn the truth to speak, do depose and say:

That the pictures submitted with this claim of the intersection of LaSalle Avenue and Kecoughtan Road, between Hampton and Newport News, Va., are true pictures taken at the scene of the accident on the same day.

H. O. SCHEY.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbott, a notary public in and for this State and city aforesaid do certify that H. O. Schey has acknowledged his signature to the foregoing writing, this — day of — 1941.

JOHN ABBOTT, *Notary Public.*

My commission expires on the 17th day of February 1943.

AFFIDAVIT OF LEONARD C. PIERCE

STATE OF VIRGINIA,

City of Newport News, to wit:

I, Leonard C. Pierce, being first sworn the truth to speak, do depose and say:

That I am a beer salesman, and as such have occasion to drive a truck and to travel in and around Hampton, Va., a great deal. That I am 38 years old, have been driving trucks for 24 years; that on September 20, 1940, I was late in my work and was therefore in a hurry. I was driving toward Hampton on the Kecoughtan Road around 4 o'clock of that day. That as I crossed Hampton Roads Avenue and had proceeded about 40 or 50 yards down the road from Hampton Roads Avenue, an Army truck passed me going at a terrific rate of speed. I, myself, was traveling at least 50 miles an hour and the Army truck left me very rapidly. A conservative estimate of its speed would be 65 to 70 miles per hour. I slowed down to turn in at Crystal Gardens and the truck was then a distance of approximately 350 feet from the point where it later crashed into the motorcycle, and it had not slowed down any. It was just a matter of a few seconds after I turned in before I heard the crash resulting from the impact between the Army truck and the motorcycle.

The Army truck was a 10-wheeled job. It left heavy black skid marks 40 paces in length. In some places the skid marks showed the marks of three tires and was over a foot wide. The scratches in the center of the highway caused by the truck dragging the motorcycle were approximately 19 feet long and are still visible in the road.

LEONARD C. PIERCE.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid do certify that Leonard C. Pierce has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

[SEAL]

JOHN ABBITT, *Notary Public.*

My commission expires on the 17th day of February 1943.

AFFIDAVIT OF E. W. COVINGTON

STATE OF VIRGINIA,

County of Elizabeth City, to wit:

I, E. W. Covington, being first sworn the truth to speak, do depose and say:

That I am a county police officer for the county of Elizabeth City, Va.; that I have been a police officer for the county since 1926; that on September 20, 1940, I arrived at the scene of the collision between an Army truck and a motorcycle very shortly after the collision had occurred. The body of the young man who was killed had not yet been removed from the scene of the accident. The Army truck had been pulled down from the point of the collision approximately 70 feet to the right-hand side of the road. The body of the young man had been thrown approximately 25 feet from the point where his motorcycle was struck by the Army truck. The deep cuts in the cement road show that the motorcycle had been dragged for a distance of approximately 19 feet down the center of the highway. The scratches and marks were almost directly on the white line, which was the center line of the highway. I examined the Army truck to the extent of going underneath the truck, and I discovered that the three transmission cases had been in contact with something that had shortly before removed grease and dirt from these transmission cases. This I am satisfied was done when the Army truck dragged the motorcycle along the highway. The skid marks in the road were very heavy, and in some places over a foot wide, and extended for a distance of about 40 paces. In my experience as a police officer I have had occasion to examine the scenes of accidents and to make estimates of speeds of the vehicles from the physical evidence available at the scene of the accident. I feel that a very conservative estimate of the speed of the Army truck which struck the motorcycle on this day would be at least 50 miles per hour.

The surface of the highway on Kecoughtan Road was dry, and it is a good cement road. A car could be stopped on this road as quickly as on any other road that I know of. It was about 4:15 in the afternoon when this accident occurred.

E. W. COVINGTON.

STATE OF VIRGINIA,

County of Elizabeth City, to wit:

I, Edna C. Riddick, a notary public in and for this State and county aforesaid do certify that E. W. Covington has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

[SEAL]

EDNA C. RIDDICK,
Notary Public.

My commission expires on the 15th day of May 1945.

AFFIDAVIT OF A. A. AIKEN

STATE OF VIRGINIA,

City of Newport News, to wit:

I, A. A. Aiken, being first sworn the truth to speak, do depose and say:

That I am an automobile mechanic, 34 years old. That I have worked on automobiles and various types of motor vehicles for the last 12 or 15 years. That I now operate a garage and service station on Kecoughtan Road, approximately a half-mile from the intersection of La Salle Avenue and Kecoughtan Road. That on September 20, 1940, at approximately 4:30 p. m., I received a message to go to the intersection of La Salle Avenue and Kecoughtan Road and bring in a motorcycle that had been damaged in an accident. When I got there I observed the scene and saw heavy black skid marks, in some places a foot wide, caused by a 10-wheel Army truck. These skid marks were about 40 paces long. There were cuts in the highway along the center for a distance of 19 or 20 feet which had been caused by the motorcycle being dragged by the truck. That about 25 minutes before I received this call, a similar Army truck went by my place of business at a terrific rate of speed. It was being operated in a reckless and careless manner; passing all the traffic on the road at the time. This truck was traveling from 65 to 70 miles per hour. I am satisfied that it was the same truck which later struck the motorcycle.

I still have the motorcycle in my possession and the condition of the motorcycle indicates, in my opinion, that it was struck head-on while the front wheel of the motorcycle was turned slightly to the left as if the driver was balancing it in a standing position. From my observation at the scene of the accident, I am satisfied that this Army truck which struck the motorcycle was traveling at

a terrific rate of speed, probably 65 to 70 miles per hour. I base my opinion on my own long experience with trucks and automobiles of various kinds. It is my opinion that it would be physically impossible to skid a 10-wheel truck with the brakes working properly for as great a distance as this truck skidded at any speed less than 70 miles per hour.

A. A. AIKEN.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid do certify that A. A. Aiken has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

[SEAL]

JOHN ABBITT,
Notary Public.

My commission expires on the 17th day of February 1943.

AFFIDAVIT OF GEORGE AMES

STATE OF VIRGINIA,

City of Newport News, to wit:

I, George Ames, being first sworn the truth to speak, do depose and say:

That I am employed by Mr. Leonard Pierce, and that I work on his truck with him distributing beer. That I was riding with Mr. Pierce on September 20, 1940. That Mr. Pierce was in a particularly great hurry that day because he was late on his route and that he was driving even faster than usual. I am sure that he was driving at least 50 miles per hour, when a large Army truck passed us as if we were standing still. I remarked to Mr. Pierce at the time that the truck was traveling very fast. We were about 150 feet from the Hampton Roads Avenue when this truck passed us.

We stopped in at Crystal Gardens to unload some beer. It seemed no time after we turned in until I heard the crash of the Army truck striking the motorcycle. I am sure the Army truck must have been traveling from 65 to 70 miles an hour, because it left us so fast even though we were driving better than 50. I later saw the scene of the accident and saw the very heavy skid marks made by the Army truck and I also saw scratches and cuts in the center of the highway that were caused by the Army truck dragging the motorcycle.

GEORGE AMES.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid, do certify that George Ames has acknowledged his signature to the foregoing writing this 6th day of June 1941.

[SEAL]

JOHN ABBITT, Notary Public.

My commission expires on the 12th day of February 1943.

AFFIDAVIT OF OSCAR W. SCHEY

STATE OF VIRGINIA,

City of Newport News, to wit:

I, Oscar W. Schey, being first sworn the truth to speak, do depose and say:

That I am an engineer employed at the National Advisory Committee for Aeronautics at Langley Field, Va.; that I viewed the scene of the accident in which Weslie Coulter's motorcycle was struck by an Army truck on September 20, 1940, on the same day that the accident occurred. Since that time, I have seen pictures taken of the scene on the same day, and also a survey made of the intersection by J. M. Cochran, civil engineer; that from a study of this chart, and the photographs and the scene, itself, I am of the opinion that the Army truck which struck Weslie Coulter's motorcycle was traveling at an excessive rate of speed.

OSCAR W. SCHEY.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbott, a notary public in and for this State and city aforesaid do certify that Oscar W. Schey has acknowledged his signature to the foregoing writing, this 12th day of June 1941.

JOHN ABBOTT, Notary Public.

My commission expires on the 17th day of February 1941.

AFFIDAVIT OF CARLTON KEMPER

STATE OF VIRGINIA,
City of Newport News, to wit:

I, Carlton Kemper, being first sworn the truth to speak, do depose and say:

That I am an engineer employed at the National Advisory Committee for Aeronautics at Langley Field, Va.; that I viewed the scene of the accident in which Weslie Coulter's motorcycle was struck by an Army truck on September 20, 1940, on the same day that the accident occurred. Since that time, I have seen pictures taken of the scene on the same day, and also a survey made of the intersection by J. M. Cochran, civil engineer; that from a study of this chart, and the photographs and the scene, itself, I am of the opinion that the Army truck which struck Weslie Coulter's motorcycle was traveling at an excessive rate of speed.

CARLTON KEMPER.

STATE OF VIRGINIA,
City of Newport News, to wit:

I, John Abbott, a notary public in and for this State and city aforesaid do certify that Carlton Kemper has acknowledged his signature to the foregoing writing, this 12th day of June, 1941.

JOHN ABBOTT, *Notary Public.*

My commission expires on the 17th day of February, 1943.

SUBJECT

H. R. 5275, which would pay to Weslie A. Coulter, Sr., the sum of \$10,000 in full satisfaction of all claims against the United States on the account of the death of his son, Weslie A. Coulter, Jr., who was killed on September 20, 1940, near Newport News, Va., in an accident involving an Army truck.

FACTS ABOUT WHICH THERE IS NO DISPUTE

1. That Weslie A. Coulter, Jr., was killed in an accident in which an Army truck was involved on September 20, 1940, near Newport News, Va.
2. The Army truck which collided with the motorcycle driven by Weslie A. Coulter, Jr., skidded a distance of 121 feet.
3. The driver of the motorcycle, Weslie A. Coulter, Jr., made no signal indicating a turn of any kind.
4. The motorcycle, at the time it was struck, was in the center of Kecoughtan Road and had entered the intersection of Kecoughtan Road and LaSalle Avenue a distance of approximately 27 feet.
5. The Army truck, at the time of the collision, was not on its proper side of the road, but was in the center of the highway straddling the white line, which indicates the center of the highway.

THEORY OF THE WAR DEPARTMENT

The War Department's theory is that the Army truck was proceeding in a lawful manner toward Hampton, Va., on Kecoughtan Road, and that the driver of the motorcycle, Weslie A. Coulter, Jr., was proceeding toward Newport News, Va., and that as Coulter entered the intersection of Kecoughtan Road and LaSalle Avenue he attempted to turn left, and seeing that he could not complete his attempted left turn, turned right, back into the center of the highway. In the meantime, the driver of the Army truck had applied his brakes and turned his vehicle to the left in order to avoid striking Weslie A. Coulter, Jr., as Coulter was attempting to make his left-hand turn, and that the accident was therefore the fault of Weslie A. Coulter, Jr.

THEORY OF THE CLAIMANT

The theory of the claimant is that Weslie A. Coulter, Jr., was driving his motorcycle toward Newport News, Va., and that he had been traveling on his right-hand side of the road and that when he was a distance of approximately 150 feet from the intersection he pulled his motorcycle close to the center of the road and proceeded in that manner until he had driven into the intersection of LaSalle Avenue and Kecoughtan Road a distance of 27 feet, which was approximately the center of the intersection, that he then came to a stop waiting for an opportunity to make his left-hand turn, that at that time his motorcycle was struck by

the Army truck, he was in this position and standing up balancing his motorcycle. It is the theory of the complainant, therefore, that Weslie A. Coulter, Jr., had done exactly what his duty required him to do—he had pulled to the center of the road and had come to a stop waiting for an opportunity to turn left; and that the accident was wholly due to the excessive speed of the Army truck, which prevented the driver from bringing the truck to a stop or otherwise properly controlling it. And the claimant believes that if the driver of the Army truck had stayed on his proper side of the highway he would have passed without any trouble as Weslie A. Coulter, Jr., was stopped in the center of the road.

Now that we have before us the facts about which there is no dispute and also the theories of the United States War Department and the claimant, we are in a position to proceed to analyze the facts and see which of the two theories seems more probably correct. There are, of course, other facts involved in this case which do not come in the classification of undisputed facts, as there was some discrepancy in the testimony of the various witnesses who have testified in the proceedings relative to this matter.

Frankly, the claimant has no way of being sure what prompted the driver of the Army vehicle to pull his vehicle to the left when he did, but concedes that there must have been some reason for it, and that the reason must have been one of the following:

1. That Weslie A. Coulter, Jr., the driver of the motorcycle, may have made some movement which the driver of the Army vehicle erroneously interpreted as an indication that Coulter had started to make a left-hand turn.

2. That the gradual pulling of the Army vehicle to the left for the whole distance that the Army vehicle skidded, for 121 feet, was not a voluntary act on the part of the driver of said vehicle, but was due rather to the driver's inability to control the vehicle properly.

We will now attempt to analyze these two propositions. If the driver of the Army truck applied his brakes to his vehicle as a result of any movement made by Coulter, then it would be well to establish the position of the two vehicles at the time such a movement was made. One of the undisputed facts is that the Army truck skidded 121 feet. It is also a known fact that no person responds to any situation immediately and that if the driver of the Army truck made this movement, as a result of the movement of Weslie A. Coulter, Jr., then he must have started to make the movement; that is, started to apply his brakes and to turn left, about 40 feet before the truck began to skid. I make this statement because some time must have elapsed between the time that the driver of the Army vehicle attempted to apply his brakes before the brakes were in actual application. Let us assume that his reaction time was approximately one-half second, which is about normal.

It is the claimant's contention that at the speed the Army vehicle was traveling, it would have traveled a distance of about 40 feet in that one-half second. We then see that the truck was a distance of 161 feet from the place where it finally stopped skidding when the driver of the Army truck saw some movement on the part of Weslie A. Coulter, Jr., which prompted him to make the decision to apply his brakes. We have thus placed the position of the Army vehicle. We will now endeavor to place the position of the motorcycle at this time. If the evidence produced before the coroner will be examined, it will be found that Hazlette, the driver of the Army truck, practically admitted that the vehicles were about 350 feet apart. Counsel for the complainant, who was present at the coroner's inquest, was prevented from developing this part of the testimony further by the coroner, who interrupted saying, "You've got him all mixed up now." An eyewitness, whose testimony the complainant concedes is not very reliable, placed the distance at approximately 200 feet. There is no doubt that at some time before the collision the vehicles were 200 feet apart, and the eyewitness may not have noticed the positions before they had come that close to each other. It is, however, reasonable to assume that Coulter was a distance of approximately 150 feet from the intersection when he made the movement, if he did, which the driver of the Army vehicle interpreted as an indication to make a left turn.

This is in conformity with the complainant's theory—that Coulter had pulled toward the center of the road as he approached the intersection. Had Coulter been close enough to the intersection, so that the driver of the Army truck would have had any reasonable reason to believe that Coulter intended to turn left, then Coulter would have had plenty of time to complete his left turn because at that time the Army truck was approximately 161 feet from the point where the motorcycle and the Army truck later collided. It is absolutely absurd to believe that if Coulter was in the intersection and had started to make a left-hand turn that he would have pulled out of a position of comparative safety and turned

back into the center of the road directly in face of the oncoming Army vehicle. It is the complainant's theory therefore, in regard to proposition No. 1, that if Weslie A. Coulter, Jr., made any movement which the driver of the Army truck interpreted as an indication on the part of Coulter to turn left, that such movement must have been made when the distance between the two vehicles was approximately 350 feet, and that if the driver of the Army truck had been driving at a reasonable rate of speed and had had his vehicle under such control as he should have, he could easily have stopped and avoided the accident. It is the complainant's further contention that the driver of the Army vehicle had several opportunities to avoid the accident. He could have stayed on his own side of the road. He could have slowed his vehicle down had he been traveling at a proper rate of speed, and certainly if the driver of the Army vehicle's contention that his speed at the time of the actual collision was only 5 miles per hour, he could at that speed have made a very sharp turn and avoided striking the motorcycle. The skid marks left by the army vehicle show no effort to make a sharp turn. The skid marks are practically straight, and in the whole distance that he skidded he changed the position of his vehicle on the road approximately 8 feet, that is toward the left.

We will now examine into proposition No. 2, namely, that the turning of the Army vehicle to the left was not a voluntary act on the part of the driver. If the pictures of the scene of the accident will be carefully examined, it will be noticed that the brakes on the left-hand side of the Army truck held constantly during the whole 121 feet of skid marks, but the brakes on the right-hand side did not. The total distance of skid marks caused by the right-hand wheels is approximately 60 feet. It requires no great knowledge of the laws of physics to know that this would create a strong pull on the left-hand side of the truck and would tend to pull the truck in that direction. The complainant therefore contends that it is very probable that it was not a voluntary act on the part of the driver of the Army vehicle but because of faulty brakes and high speed he was unable to properly control the truck.

Complainant's counsel desires to call your attention to paragraph 4 in a letter from the Secretary of War to the chairman of the Committee on Claims which reads as follows:

"that when the Government driver observed the approach of the aforesaid motorcycle and saw that Mr. Coulter was starting a left turn, which would bring him directly into the path of the Government vehicle, the Government driver immediately applied his brakes and endeavored to avoid a collision by swinging his vehicle to his left; that Mr. Coulter, realizing that a collision was imminent, tried to regain his proper side of the road by turning to his right but met the Government vehicle head-on; that at the moment of the impact the speed of the Government vehicle was about 5 miles per hour; that Mr. Coulter did not give a hand signal to indicate his intention of making a left turn."

An analysis of this statement reveals that according to the testimony of the Army truck driver, Weslie A. Coulter, Jr., was on the left-hand side of the road and realizing that a collision was imminent, he (Coulter) turned to the right trying to regain his proper side of the road. It is perfectly clear that if Coulter had been on the left-hand side of the road a collision would not have been imminent, and that the only way that a collision could become imminent, would be if Coulter would attempt to regain his right-hand side of the road, because in so doing he would drive directly into the path of the oncoming Army vehicle. It is unbelievable that a sane man would turn from a position of safety into one of danger; and complainant therefore contends that this contention on the part of the driver of the Army truck is wholly without any merit.

We will now deal with the question of the speed of the Army vehicle. A study of the evidence produced before the coroner dealing with this question reveals what time the Army truck left Langley Field, and that the said truck had made several stops discharging passengers, that the truck had come through the city of Hampton, through part of the city of Newport News as far as Chestnut Avenue, and that it had turned around at Chestnut Avenue and was on its way back to Langley Field and had gone as far as LaSalle Avenue when the fatal accident occurred. Taking into consideration the time the driver admitted he lost as a result of stops putting off passengers, it is perfectly obvious that the Army truck had made an average speed of approximately 40 miles per hour for the whole distance. This speed had been maintained in spite of the fact that traffic from Langley Field to Hampton at that time of the day is particularly heavy, and that the traffic between Newport News and Hampton at that time is also heavy. It is needless to call the attention of the committee to the fact that it would be difficult for an average speed of 40 miles per hour to be maintained by a vehicle

whose maximum speed is between 38 and 40 miles per hour, as is the contention of the War Department. A salesman by the name of Mr. Pierce, whose testimony at a hearing before the coroner was that he himself was traveling approximately 45 miles an hour at a distance of only about 400 feet from the place the accident occurred, and that the Army truck passed him at a high rate of speed. You cannot pass a vehicle going 45 miles per hour with another vehicle with a governor which limits its speed to 40 miles an hour.

Claimant has also submitted the affidavits of a mechanic, who saw the Army vehicle pass his place of business. The mechanic estimated the speed of the vehicle at approximately 70 miles per hour. The complainant has also submitted the affidavits of engineers who had examined the scene of the accident and who made affidavits to the effect that the speed of the Army truck was excessive as indicated by the skid marks on the highway. A police officer who examined the scene of the accident made affidavit that a conservative estimate of the speed of the Army vehicle would be 50 miles per hour. The claimants are from Minnesota and are unknown in this community and all of the people who have offered evidence in their behalf are unknown to them, and there certainly is no reason that they should make false statements. Claimants contend that if there were no evidence available at all, other than the skid marks left by the Army vehicle, that those skid marks alone are sufficient to lead any person to the conclusion that the Army vehicle must have been driven at an excessive rate of speed. It would have been physically impossible for this vehicle to have skidded 121 feet if its maximum speed had been only 40 miles per hour.

It is the contention of the driver of the Army vehicle that at the time of the actual collision he had reduced the speed of the Army truck to 5 miles per hour. Claimant desires to call the attention of the committee to pictures of the scene which were submitted with the claim. These pictures show, though not very clearly, scratches and cuts in the middle of Kecoughtan Road commencing at a point 27 feet in the intersection and continuing toward Hampton on Kecoughtan Road in broken lines for approximately 27 feet. This indicates, without any doubt, that the Army vehicle dragged the motorcycle for that distance after the collision. At that point the motorcycle became free from the Army vehicle and the Army vehicle continued some distance further before it came to a stop. Had the truck been going only 5 miles per hour this would have been physically impossible. An examination of the coroner's record will show that the police officers testified to substantially the same facts set out in this paragraph.

Further examination of the testimony before the coroner will reveal that the driver of the Army vehicle himself stated that the driver of the motorcycle appeared to be standing up at the time of the collision. This is in conformity with the complainant's theory but it certainly does not conform to the theory of the War Department. It is almost impossible for a person to stand up on a motorcycle in motion and it is certainly highly improbable that it could be done while the motorcycle was making a left-hand turn. Taking all of the facts into consideration the claimant contends that this accident was due wholly to the negligence of the driver of the Army vehicle and contends that the specific acts of negligence on the part of the driver of the Army vehicle are as follows:

1. The truck was being driven at an excessive and unlawful speed.
2. The driver of the Army vehicle failed to keep his vehicle on the right-hand side of the highway.
3. The driver was negligent in that he failed to have his vehicle under proper control and to bring the same to a stop when he sensed any danger.

The claimant further contends that for the driver of the Army vehicle, to assume that Weslie A. Coulter, Jr., intended to turn left when there is no contention that Coulter made any signal indicating a left-hand turn, is to say the least, the exercise of very poor judgment, but that if the driver of the Army vehicle actually did believe that Coulter attempted to turn left, that the only indication that Coulter could have possibly have given him of such an intention was given when the vehicles were such distance apart that the driver of the Army truck had ample time to get his vehicle under control had he been traveling at a proper rate of speed, and that his failure to do so was negligence.

The complainant further contends that the matter with which we are dealing is a civil matter and that it is not necessary for him to prove his right to recover beyond any reasonable doubt, but that he is only required to prove this right by a mere preponderance of the evidence; this he feels that he has done.

Since the Secretary of War in his letter to the committee dealing with this matter stresses the fact that the driver of the Army truck has been absolved

from negligence by the coroner, it is deemed necessary to call the committee's attention to the fact that the grand jury for the county of Elizabeth City, Va., has found cause for believing the man guilty of manslaughter, and that they, therefore, returned an indictment against him charging him with manslaughter. This matter is now pending in the United States District Court for the Eastern District of Virginia.

In the letter to the committee from the Secretary of War is a paragraph stating that an Army officer made an examination of the Army truck which was involved in this accident and found that the speed of the truck with the throttle held wide open for one-half to three-quarters of a mile was between 38 and 40 miles per hour. It would be very helpful to the committee if the same officer, when he was making this test would have applied the brakes of the truck hard enough to have caused the wheels to skid so that the committee might know how far this truck would skid at a speed of 40 miles per hour. Counsel for the complainant feels that it is permissible to wonder why this was not done.

Affidavits have been submitted showing the need of the claimant for his son's assistance and claimant feels that the amount asked will in nowise compensate him for his loss.

Respectfully submitted.

H. O. SCHEY,
Counsel for W. A. Coulter, Sr.

EXHIBIT A

To the War Department of the United States of America:

I, W. A. Coulter, do make this claim in the sum of \$10,000 against the United States Government for the wrongful death of my son, Weslie A. Coulter, which resulted from the negligent operation of a United States Army vehicle driven by Clyde Hazlet who is stationed at Langley Field, Va., Company A.

The facts relative to the said accident in which my son was killed are stated on information and are as follows:

That on September 20, 1940, my son, Weslie A. Coulter, was driving a motorcycle proceeding west on Kecoughtan Road from Hampton, Va., to Newport News, Va., at approximately 4:30 in the afternoon of that day; that one Clyde Hazlet, who was driving United States truck No. W413019, was driving east on Kecoughtan Road from Newport News, Va., to Hampton, Va., collided with the said motorcycle at the intersection of LaSalle Avenue and Kecoughtan Road. From the evidence produced at the coroner's inquest, it was shown that the motorcycle was being driven at a reasonable and proper speed and was directly in the center of the road, and had entered the intersection of LaSalle and Kecoughtan Road, where it had in all probability come to a rest before making a left-hand turn. The evidence produced before the coroner also indicated that the Army truck, driven by Clyde Hazlet, must have been traveling at an excessive rate of speed since it skidded for approximately 40 paces. The truck was pulling slightly to the left during the whole distance that it skidded, and when it struck the motorcycle, the left wheel of the truck was on the left-hand side of the center line of the highway. As previously stated, the facts stated herein are on information.

WESLIE A. COULTER.

STATE OF MINNESOTA,
City of Minneapolis, to wit:

I, John A. Dunn, a notary public in and for the State and city aforesaid, do hereby certify that W. A. Coulter has signed the foregoing writing relative to his claim against the United States Government for the death of his son and on oath states that the facts therein stated are upon information and that he believes them to be correct.

JOHN A. DUNN,
Notary Public, Hennepin County, Minn.

OCTOBER 26, 1940.

Date as of April 10, 1945.

A true copy:

RICHARD F. OBER,
First Lieutenant, Air Corps.

EXHIBIT C

LANGLEY FIELD, VA., October 4, 1940.

FINDINGS

1. That GMC 2½-ton truck, United States Army, registration No. 413019, operated by Private Clyde B. Hazlett, 7026288, Company A, Thirtieth Quartermaster Regiment (truck), Langley Field, Va., was returning from Newport News to Langley Field, Va., on Kecoughtan Road. Upon nearing the intersection of LaSalle Avenue a motorcycle operated by Weslie A. Coulter, Jr., approached in the opposite direction and collided with the Government vehicle mentioned above at approximately 4:15 p. m. on September 20, 1940.

2. That at the time of the accident Private Hazlett was operating the Government vehicle in question on official duty returning from Newport News to Langley Field, Va. (Attached trip ticket verifies the mission.) Private Hazlett was proceeding at about 30 miles per hour on his proper side of the road and complying with the State laws as the speed limit is 45 miles per hour on that State highway (route No. 60). As he approached the intersection, the motorcycle operated by Weslie A. Coulter, Jr., started to make a left-hand turn before the proper point of the intersection and cutting the double white center line. After starting to negotiate this left-hand turn he evidently felt that he could not complete it with safety so he attempted to turn back to his right side of the road again. Private Hazlett, as he saw the motorcyclist begin to make this turn gave way to his extreme left, of his proper lane of traffic, attempting to get away from him, and as he did so the motorcyclist in turning back to his right, ran into the front of Government vehicle United States Army registration No. 413019 operated by Private Hazlett.

3. Private Hazlett did everything in his power to make a safe crossing of the intersection under the circumstances. The operator of the motorcycle violated three traffic regulations in the operation of his vehicle which caused the fatal accident to occur.

4. Damage to Government truck: 15 cents worth of damage. Sheared two small bolts off the bottom of the front differential housing of the 2½-ton GMC and scratched the paint on the housing in several places.

5. Damage to privately owned vehicle, a 1935 Harley-Davidson motorcycle (maroon and black, without sidecar) and license No. 386, Minnesota, and National Advisory Committee for Aeronautics tag No. 504: Completely demolished, except the wheels.

6. Injury received by civilian operating the motorcycle, Wesley A. Coulter, Jr.: Fractured skull in three places, fracture of the fibula of the left leg, lacerations about the kneecap of the left leg, and abrasion of the right arm. Time of the accident was at 4:15 p. m. Shortly after that Weslie A. Coulter, Jr., was picked up in an ambulance by the Wythe Volunteer Fire Department of Hampton and taken to the Dixie Hospital at Hampton, Va., where he was given all medical care and attention possible.

7. That the fatal accident was caused by three traffic violations of the State of Virginia on the part of Weslie A. Coulter, Jr.:

(a) That he did not extend his left arm giving the signal for a left turn at any time, and for a distance of 50 feet, as required.

(b) That he cut the white line to make a left turn before coming to the intersection.

(c) That he did not proceed at a slow rate of speed to the center of the intersection of Kecoughtan Road and LaSalle Avenue and then make a slow left hand turn, staying in his own lane as required by the State laws of Virginia.

The law further states that a man must not only give the signal and be in the proper lane but he must see that the turn can be executed in safety.

RECOMMENDATIONS

That Private Hazlett be held not responsible for the accident in any manner, shape, or form.

Justification of this being verified by the fact that the boy (Private Hazlett) was acquitted of any criminal negligence by the coroner, and that the case was ordered dismissed upon recommendation by the attorney for the Commonwealth

of the State of Virginia before Trial Justice John H. Bowen in the Elizabeth City County Court at Hampton, Va., on September 30, 1940, at 10:20 a. m.

JAMES TRIMBLE KELLEY,
Captain, Field Artillery, Air Corps Reserve, Investigating Officer.

Air base headquarters, Langley Field, Va., November 5, 1940.
Approved.

JACOB W. S. WUEST,
Colonel, Air Corps, Commanding.

LANGLEY FIELD, VA.,
September 23, 1940.

Personally appeared before me, the undersigned authority for administering oaths in cases of this character, one Private Clyde B. Hazlett, 7026288, Company A, 30th Quartermaster Regiment (Truck), Langley Field, Va., who, being duly sworn, deposes and says:

I, Private Clyde B. Hazlett, was proceeding from Newport News, Va., to Langley Field, Va., on Kecoughtan Road at about 4:15 p. m. September 20, 1940. I saw a motorcycle coming from the opposite direction. The motorcycle attempted to make a left-hand turn into LaSalle Avenue in front of my truck but he saw that he couldn't make it and tried to get back to his own lane which he had just left. Upon my seeing the motorcycle attempting to make this turn, I applied my brakes and swerved to the left to avoid colliding with it. When I swerved to the left the motorcycle upon seeing he couldn't make the turn in time turned back into Kecoughtan Road and collided with my truck. The motorcyclist started to make his left-hand turn a little before the end of the double white line in the center of the road instead of going to the center of the intersection and making his turn from there. At the time I collided with the motorcycle I was traveling at about 5 miles per hour. Before I applied my brakes my speed was approximately 30 miles per hour. The driver of the motorcycle did not give a hand signal to designate his intentions of making a left-hand turn.

Further deponent saith not.

CLYDE B. HAZLETT,
*7026288, Private First class, Company A,
30th Quartermaster Regiment (Truck).*

Subscribed and sworn to before me, this 23d day of September 1940, at Langley Field, Va.

JAMES TRIMBLE KELLEY,
Captain (Field Artillery), Air Corps Reserve, Investigating Officer.

LANGLEY FIELD, VA.,
September 23, 1940.

Personally appeared before me, the undersigned authority for administering oaths in cases of this character, one Private Eugene J. O'Connell, 13002098, Company A, 30th Quartermaster Regiment (truck), Langley Field, Va., who, being duly sworn according to law, deposes and says:

I, Private Eugene J. O'Connell, was riding in the cab with Private Hazlett, who was proceeding from Newport News, Va., to Langley Field, Va., on Kecoughtan Road at about 4:15 p. m. September 20, 1940. I saw a motorcycle coming from the opposite direction. The motorcycle attempted to make a left-hand turn into LaSalle Avenue in front of the truck but he saw that he couldn't make it and tried to get back to his own lane which he had just left. Upon my seeing the motorcycle attempting to make this turn Private Hazlett applied his brakes and swerved to the left, doing everything in his power or humanly possible to avoid collision with the motorcycle. The motorcyclist started to make his left-hand turn a little before the end of the double white line in the center of the road instead of going to the center of the intersection and making his turn from there. At the time of the collision with the motorcycle Private Hazlett was traveling at about 5

miles per hour. Before he applied his brakes his speed was approximately 30 miles per hour. The driver of the motorcycle did not give a hand signal.

Further deponent saith not.

EUGENE J. O'CONNELL,
13002098, Private Company A,
30th Quartermaster Regiment (Truck).

Subscribed and sworn to before me this 23d day of September 1940, at Langley Field, Va.

JAMES TRIMBLE KELLEY,
Captain (Field Artillery), Air Corps Reserve, Investigating Officer.

LANGLEY FIELD, VA.,
September 23, 1940.

Personally appeared before me, the undersigned authority for administering oaths in cases of this character, one Private Stanley G. Winzler, 6995440, Air Base Group, First Air Base Group (RF), Langley Field, Va., who, being duly sworn, deposes and says:

I, Private Stanley G. Winzler, was on my way from Langley Field, Va., to Newport News with Work Projects Administration personnel on Kecoughtan Road. As I was approaching LaSalle Avenue a motorcycle passed me on the left-hand side in the center of the road. I glanced down at my speedometer and found out I was going 30 miles per hour. There were a few cars in front of me when I heard a crash. About the same time I heard a crash my right front tire blew out and I had to stop my reconnaissance car. The crash occurred a few moments after the motorcyclist passed me. The blow-out of my tire prevented me from seeing the accident. Upon stopping my car I went to see the cause of the accident. When I saw what happened I rendered what aid I could. A call had already been placed for an ambulance. The body was not disturbed as far as I could see and the injured man was fanned in an attempt to revive him. The weather was clear and the road was dry.

STANLEY G. WINZLER, 6995440,
Private, First Air Base Squadron,
First Air Base Group (RF).

Subscribed and sworn before me this 23d day of September 1940 at Langley Field, Va.

JAMES TRIMBLE KELLEY,
Captain (Field Artillery), Air Corps Reserve, Investigating Officer.

Personally appeared before me, the undersigned authority for administering oaths in cases of this character, one Mr. J. E. Price, 191 LaSalle Avenue, Hampton, Va., who, being duly sworn according to law, deposes and says:

I, Mr. J. E. Price, 191 LaSalle Avenue, Hampton, Va., make the following statement:

When I first noticed the two vehicles concerned in this accident, which happened at about 3:45 p. m. September 20, 1940, they were approximately 100 feet apart. One vehicle was a 2½-ton Government truck and the other was a motorcycle. The Government truck was not going over 35 miles per hour. The man on the motorcycle was going to turn left into LaSalle Avenue but discovered that he couldn't make it and tried to get back to his side of the road. In doing this the driver of the Government vehicle gave way to the left to avoid hitting the motorcyclist but at the same time the motorcyclist, trying to get back on the right side of Kecoughtan Road, ran into the truck.

The motorcycle was proceeding in the direction of Newport News, Va., on Kecoughtan Road and the Government vehicle was going toward Langley Field, Va., on the same road.

The conduct of the driver of the Government truck was in conformity with the required laws of the State of Virginia. He made every effort humanly possible to avoid hitting the motorcyclist. At the instant both vehicles collided the truck was not going over or exceeding 5 miles per hour.

J. E. PRICE,
191 LaSalle Avenue, Hampton, Va.

Subscribed and sworn to before me, this 23d day of September, 1940, at 191 LaSalle Avenue, Hampton, Va.

JAMES TRIMBLE KELLEY,
Captain (Field Artillery), Air Corps Reserve, Investigation Officer.

LANGLEY FIELD, VA., *October 7, 1940.*

Personally appeared before me, the undersigned authority for administering oaths in cases of this character, one Capt. James Trimble Kelley (Field Artillery), Air Corps Reserve, Langley Field, Va., who, being duly sworn according to law, deposes and says:

I, Capt. James Trimble Kelley, am, in addition to my other duties, detailed as base investigating officer for accidents involving Government motor vehicles, under the provisions of paragraph 17b, AR 850-15, pursuant to authority contained in Special Orders, No. 200, paragraph 4, air base headquarters, dated August 29, 1940.

On the afternoon of September 20, 1940, I was proceeding toward my home on Kecoughtan Road going south on LaSalle Avenue and approximately a few minutes after the accident took place came upon the scene. The following is the state of what I saw in compliance with my above orders:

At approximately 4:20 p. m. I came upon the scene of the accident in question. The motorcycle was laying in the highway at the position marked on the photographs. Government truck was pulled off to the side of the road. Privates Hazlett, O'Connell, and Winzler were on the scene of the accident. Wesley A. Coulter, Jr., was laying in the position on the highway where he had fallen. The three privates named above were normal in every respect and had not been drinking. An ambulance had already been called for by several people living nearby. I did not permit anyone to move the injured man because injuries such as a broken leg or bones may be aggravated by improper moving. I opened the man's clothing and had a small pad placed under his head to make him more comfortable. I could not observe any injuries about the trunk of his body. His left leg had bled a small amount but the hemorrhage had apparently stopped, not making it necessary to apply a tourniquet. The man was not bleeding at the ears, nose, or mouth which usually is a sign of a fractured skull. He was unconscious the whole time that I saw him. When the ambulance arrived at about 4:23 p. m. they brought a litter out and he was placed upon it cautiously. They placed a splint on his left leg. One of the men from the fire department asked me if the leg should be put in traction. I told them yes. A doctor, one of the spectators who I understood later was Dr. Switika, said it was not necessary, at which time I told the firemen all right, if that was his judgment. The man was placed in the ambulance and removed from the scene of the accident. Meantime, Officer U. T. Mayo, No. 159, of the Virginia State Police and Officer No. 6, V. T. Jacobs, of the Elizabeth City County police arrived on the scene and started an investigation. I gave them all the information that they requested and pointed out to them all visible marks of the accident.

I located Mr. Price and arranged for a statement from him, as he was the only witness any of us were able to procure who actually saw the accident. He was sitting on the front porch of his house, 191 La Salle Avenue, Hampton, Va., which faces La Salle Avenue and looks toward Langley Field, Va., and he was able to observe the motorcycle coming up the highway and see the path of the motorcycle as well as the Government truck as it went by. I had the motorcycle removed from the highway to the side of the road, and some of Mr. Coulter's friends called for the Aiken Motor Service on Kecoughtan Road to come and pick up his machine and take it away. This was done so as not to tie up the traffic by people looking at the damaged machine and perhaps causing another accident on the speedway.

The information that I was able to get was Private Hazlett's Government driver's license No. 330313 and Kentucky driver's license No. 9310. That he was driving the Government truck, United States registry No. W-413019. He was proceeding toward Langley Field on Kecoughtan Road. The motorcycle was owned by Wesley A. Coulter, Jr., 3515 Chesapeake Avenue, Hampton, Va., whose vehicle license number was Minnesota 386, and he had a National Advisory Committee of Aeronautics tag No. 504 on the machine. He was probably proceeding home. The motorcycle was maroon and black and was of 1935 vintage. It was demolished with the exception of the wheels. The motorcycle came out Kecoughtan Road and passed one of our drivers going in the same direction, who was traveling 30 miles per hour, which showed that his speed was greater than our driver. This was a short piece before his contact with the Government truck.

From the information I received, Mr. Coulter came up the highway and started to make a left turn from his proper side by cutting the double white center line some distance before the intersection. Our truck approached in the opposite direction, and seeing the man start to make the turn without his having given any

signal whatsoever, started to bring the speed of his truck down, as the marks on the road showed. The motorcycle evidently feeling that he could not make it, turned back to his right again, cutting into the path of the Government vehicle, which had given way to his left, and running into the front of same vehicle. The estimated speed of the Government truck to the point of contact as given by witnesses was approximately 5 miles per hour and the motorcycle was about 10 miles per hour.

Private O'Connell was riding on the front seat with Private Hazlett, the driver at the time of the accident. The motorcyclist, from the statement of the witnesses, evidently tried to stop his machine and throw himself clear just prior to the crash, as he appeared to stand up. The truck, from the position of the marks on the road and the motorcycle and the position of the body, did not look like it had passed over Mr. Coulter's body at any time. When the motorcycle ran into the front of the Government truck, it was knocked down and caught by the front differential, marking the highway for a distance of 24 feet to its final resting place, as the photographs shows. In that space it had just sheared off two small bolts on the base of the front differential housing, scratched it in one or two places, and was then released, and then the rear differential housing passed over it, just leaving a few scratches but not damaging the Government vehicle in any other way. There was no other marks on the front or sides of the Government vehicle.

The weather was clear and the road was dry. It is an asphalt road. The diagram on the investigation officer's report gives the approximate dimensions and measurements of the highway, Route No. 60. I personally examined the truck and found it to be in good order otherwise. A little later at a more approximate time, I examined Private Hazlett, giving him a road test and having him answer the questionnaire, on which he was given 100 percent by the commanding officer as well as myself. I tested the speed of the truck, which has a governor on it, and found that the machine's speed, holding it wide open for a distance of a half to three-quarters of a mile, was between 38 and 40 miles per hour. After the State and county authorities had received all necessary answers to their questions, I had private Hazlett returned to this post with his vehicle and another man driving it in slowing so that it could be checked the first thing in the morning. There was no other damage, as I had already stated, after the check.

Inquiry at the hospital showed that the man still was unconscious. X-rays of the leg showed that there was a fracture of the fibula of the left leg, lacerations around the kneecap, abrasion of the right arm, and the following day an X-ray of the skull showed that it was fractured in three places. The man only regained consciousness for a few minutes at one time, to the best information that I could find. His records I procured from the hospital as well as borrowing the X-rays to make the necessary prints for the enlightenment of those interested in the case in the future.

The following day at 11 p. m., Wesley A. Coulter, Jr., died. His supervisor at National Advisory Committee for Aeronautics, who I understand is Oscar W. Shay, contacted his family in Minnesota at Minneapolis, Minn., after the accident, and that they were proceeding East at once. He looked out for the young man's interest at the hospital. The hospital authorities tell me that after the X-ray showing the fractured skull, they called in Dr. Coleman, who is a brain specialist and the finest in this part of the East, who resides and has his office in Richmond, Va., was called in as a consultant. He did not deem it necessary to operate on the skull at this particular time. On Sunday, State Officer V. T. Jacobs, of the Virginia State Police, came to Langley Field, called at headquarters, identifying himself, and showed the proper authority to pick up Private Hazlett on the charge of manslaughter.

A short time later I received a call that Private Hazlett was in the Elizabeth City County jail, at which time I went down and put up bond for his release. The coroner's inquest was held on the 27th day of September at 3 p. m., and Private Hazlett was exonerated from any criminal negligence on his part in the fatal accident. Following this, it was necessary to take him into court and have him cleared by the records of the Commonwealth attorney and before the trial justice, John H. Bowen. This was accomplished in good order, as the attached exhibits will show. A copy of each of the pertinent papers was given to Private Hazlett for his personal file and protection in the future against any comment which might arise.

There was no injury whatsoever to Private Hazlett. I personally feel that the young man did everything that was humanly possible to avoid this unfortunate

incident. He is an excellent soldier, quiet, industrious, minds his own business, and carries out his orders well. He does not drink and at that time did not smoke. I mentioned this to show that it is not possible that he was fooling with a cigarette or other tobacco; that he was not smoking a cigarette or handling it at the time he should have been paying attention to his driving.

Some of this above statement may seem irrelevant and not pertaining to the accident, but I feel that it has a bearing on same and that the higher authority above me and the claims board should know all the details so that they may be governed accordingly.

I wish to state confidentially at this time that I have been informed that Oscar W. Shay, Weslie A. Coulter, Jr.'s supervisor, comes from the same town, Minneapolis, Minn., that Mr. Coulter comes from. Mr. Shay's brother, H. O. Shay, has been given the case, as he is a lawyer and was acquainted with the boy, and Mr. H. O. Shay, who was present at the coroner's inquest, told me of his intention to file suit or claim against the Government.

I examined the traffic laws of the State of Virginia and find in their manual the following:

(P. 8, par. 23)

"When can you pass another car going in the same direction?

"You can pass at any time when you can see ahead far enough to know that the road is clear enough for you to pass and get back on your side of the road.

"You cannot pass on hills, or curves, or at intersections, because you cannot be sure the road is clear."

(P. 8, par. 25)

"What must you do when someone starts to pass you?

"You must pull to the right and allow him to go around you. It is a good rule also to slow down a little to let him get back on his side of the road. You must never increase your speed."

(P. 9, par. 32)

"What must you do before you make a turn?

"You must give a signal, get in the proper lane, and see that the turn can be made in safety."

(P. 9, par. 34)

"When must you give a signal for turning or stopping?

"You must give the signal continuously for a distance of at least 50 feet before you turn or begin to slow down, and it shall be visible front and rear to any driver or pedestrian who might be affected."

(P. 10, par. 35)

"What is the signal for a left turn?

"For a left turn, extend the left hand and arm straight out."

(P. 10, par. 40)

"The right-of-way rule says that:

"(2) A vehicle approaching an intersection shall allow another vehicle in the intersection and turning left to make such turn if the driver making the turn has given the required signal."

Weslie A. Coulter, Jr., according to the testimony gathered from the witnesses, disregarded all three of the traffic laws and in addition disregarded the rule of proceeding to the center of the intersection before making a careful left-hand turn at a slow speed.

Mr. Price at 191 La Salle Avenue, Hampton, Va., told me personally that he did not feel that our operator was in the wrong and that he was doing everything that was possible to avoid the accident. He also told me that the Government truck was traveling, before the accident, at approximately 30 miles per hour and the State law which regulates the speed on this particular State Highway, Route No. 60, is 45 miles per hour for trucks.

The point of contact occurred in the lane of traffic that was proper for the Government vehicle to be in.

I had photographs taken of the scene of the accident. Made all the measurements personally and returned all the negatives that I borrowed from the hospital.

There was no autopsy held on the body and the boy's parents arrived later and took over the body at the undertaker's establishment.

Further deponent saith not.

JAMES TRIMBLE KELLEY,
Captain (Field Artillery), Air Corps Reserve,
Investigating Officer.

Subscribed and sworn to before me, this 7th day of October 1940, at Langley Field, Va.

E. A. DEWITT,
Major, Quartermaster Corps,
Investigating Officer.

EXHIBIT D. AFFIDAVIT OF OSCAR W. SCHEY

STATE OF VIRGINIA,

City of Newport News, to wit:

I, Oscar W. Schey, being first sworn the truth to speak, do depose and say: That I am an engineer employed at the National Advisory Committee for Aeronautics at Langley Field, Va. That I viewed the scene of the accident in which Weslie Coulter's motorcycle was struck by an Army truck on September 20, 1940, on the same day that the accident occurred. Since that time, I have seen pictures taken of the scene on the same day, and also a survey made of the intersection by J. M. Cochran, civil engineer. That from a study of this chart, and the photographs and the scene itself, I am of the opinion that the Army truck which struck Weslie Coulter's motorcycle was traveling at an excessive rate of speed.

OSCAR W. SCHEY.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid, do certify that Oscar W. Schey has acknowledged his signature to the foregoing writing, this 12th day of June 1941.

JOHN ABBITT, *Notary Public.*

My commission expires on the 17th day of February 1943.

A true copy.

RICHARD F. OBER,
First Lieutenant, Air Corps.

EXHIBIT E. AFFIDAVIT OF CARLTON KEMPER

STATE OF VIRGINIA,

City of Newport News, to wit:

I, Carlton Kemper, being first sworn the truth to speak, do depose and say: That I am an engineer employed at the National Advisory Committee for Aeronautics at Langley Field, Va. That I viewed the scene of the accident in which Weslie Coulter's motorcycle was struck by an Army truck on September 20, 1940, on the same day that the accident occurred. Since that time, I have seen pictures taken of the scene on the same day, and also a survey made of the intersection by J. M. Cochran, civil engineer: that from a study of this chart, and the photographs and the scene, itself, I am of the opinion that the Army truck which struck Weslie Coulter's motorcycle was traveling at an excessive rate of speed.

CARLTON KEMPER.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid, do certify that Carlton Kemper has acknowledged his signature to the foregoing writing, this 12th day of June 1941.

JOHN ABBITT, *Notary Public.*

My commission expires on the 17th day of February, 1943.

A true copy.

RICHARD F. OBER,
First Lieutenant, Air Corps.

EXHIBIT F. AFFIDAVIT OF WESLIE A. COULTER, SR.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, Weslie A. Coulter, Sr., being first sworn the truth to speak, do depose and say:

That I am the father of Weslie A. Coulter, who was killed when an Army truck struck the motorcycle on which he was riding on September 20, 1940.

That the motorcycle was proceeding from Hampton, to Newport News on Kecoughtan Road, and that the Army truck was proceeding on the same road toward Hampton, Va. That at the intersection of Kecoughtan Road with La Salle Avenue, the Army truck struck the motorcycle which was being driven by Weslie A. Coulter; that all of the evidence indicates that the motorcycle had come to a stop, pulled to the center of the lane, preparing to make a left hand turn; that the Army truck skidded 121 feet, struck the motorcycle which had entered the intersection a distance of 27 feet, and dragged the motorcycle along the center of the road for a distance of 19 feet, leaving deep cuts in the cement bed of the road.

That I am 56 years of age, in poor health; that I have recently been rejected for civil service employment because of my health. My hearing is particularly bad, necessitating the use of a mechanical hearing aid; that I furnished all the funds for my son's education at the University of Minnesota, where he was a student for 4 years and the approximate cost of his university education to me was approximately \$4,000. For 2 years immediately after his graduation, he was employed at the university while he was doing post-graduate work as an assistant professor, during which time all of his earnings were turned over to me; that at the time of his death he had been employed at the National Advisory Committee of Aeronautics at Langley Field, Va., as an engineer for 1 month. That for 2 months prior to that he had been employed at Wright Motors at Paterson, N. J.; that during this time he sent me approximately 65 percent of his income. That we had a definite understanding that he was to continue to make monthly payments to me because he knew that I was dependent on him, my earnings being insufficient to take care of my needs.

My physician advises me that my bad hearing has been aggravated by the nervous strain under which I have been living since my son's death, and that in all probability I will lost my hearing entirely. That I am a mechanic by trade and will be greatly handicapped in my work as a result of the loss of my hearing, and my earnings will consequently be greatly diminished. I have made application for employment at two of the defense projects under the United States Civil Service and have been rejected in both instances because of my physical condition. The notice received by me of my rejection is attached hereto. I was rejected in spite of the fact that I am entitled to military preference.

WESLIE A. COULTER, SR.

STATE OF VIRGINIA,

City of Newport News, to wit.

I, John Abbitt, a notary public, in and for the State and city aforesaid, do certify that Weslie A. Coulter, Sr., has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

My commission expires 17th of February 1943.

JOHN ABBITT.

A true copy.

RICHARD F. OBER,

First Lieutenant, Air Corps.

EXHIBIT G. AFFIDAVIT OF A. A. AIKEN

STATE OF VIRGINIA,

City of Newport News, to wit:

I, A. A. Aiken, being first sworn the truth to speak, do depose and say that I am an automobile mechanic, 34 years old; that I have worked on automobiles and various types of motor vehicles for the last 12 or 15 years. That I now operate a garage and service station on Kecoughtan Road, approximately a half mile from the intersection of LaSalle Avenue and Kecoughtan Road. That on September 20, 1940, at approximately 4:30 p. m., I received a message to go to the intersection of LaSalle Avenue and Kecoughtan Road and bring in a motorcycle that had been damaged in an accident. When I got there I observed the

scene and saw heavy black skid marks, in some places a foot wide, caused by a 10-wheel Army truck. These skid marks were about 40 paces long. There were cuts in the highway along the center for a distance of 19 or 20 feet, which had been caused by the motorcycle being dragged by the truck; that about 25 minutes before I received this call, a similar Army truck went by my place of business a terrific rate of speed. It was being operated in a reckless and careless manner, passing all the traffic on the road at the time. This truck was traveling from 65 to 70 miles per hour. I am satisfied that it was the same truck which later struck the motorcycle.

I still have the motorcycle in my possession and the condition of the motorcycle indicates, in my opinion, that it was struck head-on while the front wheel of the motorcycle was turned slightly to the left as if the driver was balancing it in a standing position. From my observation at the scene of the accident, I am satisfied that this Army truck which struck the motorcycle was traveling at a terrific rate of speed, probably 65 to 70 miles per hour. I base my opinion on my own long experience with trucks and automobiles of various kinds. It is my opinion that it would be physically impossible to skid a 10-wheel truck with the brakes working properly for as great a distance as this truck skidded at any speed less than 70 miles per hour.

A. A. AIKEN.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid do certify that A. A. Aiken has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

JOHN ABBITT, Notary Public.

My commission expires on the 17th day of February 1943.

A true copy:

RICHARD F. OBER,

First Lieutenant, Air Corps.

EXHIBIT H.—AFFIDAVIT OF LEONARD C. PIERCE

STATE OF VIRGINIA,

City of Newport News, to wit:

I, Leonard C. Pierce, being first sworn the truth to speak, do depose and say: That I am a beer salesman, and as such have occasion to drive a truck and to travel in and around Hampton, Va., a great deal. That I am 38 years old, have been driving trucks for 24 years; that on September 20, 1940, I was late in my work and was therefore in a hurry. I was driving toward Hampton on the Kecoughtan Road around 4 o'clock of that day. That as I crossed Hampton Roads Avenue and had proceeded about 40 or 50 yards down the road from Hampton Roads Avenue, an Army truck passed me going at a terrific rate of speed. I, myself, was traveling at least 50 miles an hour and the Army truck left me very rapidly. A conservative estimate of its speed would be 65 to 70 miles per hour. I slowed down to turn in at Crystal Gardens and the truck was then a distance of approximately 350 feet from the point where it later crashed into the motorcycle, and it had not slowed down any. It was just a matter of a few seconds after I turned in before I heard the crash resulting from the impact between the Army truck and the motorcycle.

The Army truck was a 10-wheeled job. It left heavy black skid marks 40 paces in length. In some places the skid marks showed the marks of three tires and was over a foot wide. The scratches in the center of the highway caused by the truck dragging the motorcycle were approximately 19 feet long and are still visible in the road.

LEONARD C. PIERCE.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid do certify that Leonard C. Pierce has acknowledged his signature to the foregoing writing this 6th day of June 1941.

JOHN ABBITT, Notary Public.

My commission expires on the 17th day of February 1943.

A true copy:

RICHARD F. OBER,

First Lieutenant, Air Corps.

EXHIBIT I. AFFIDAVIT OF GEORGE AMES

STATE OF VIRGINIA,

City of Newport News, to wit:

I, George Ames, being first sworn the truth to speak, do depose and say:

That I am employed by Mr. Leonard Pierce, and that I work on his truck with him, distributing beer. That I was riding with Mr. Pierce on September 20, 1940. That Mr. Pierce was in a particularly great hurry that day because he was late on his route and that he was driving even faster than usual. I am sure that he was driving at least 50 miles per hour, when a large Army truck passed us as if we were standing still. I remarked to Mr. Pierce at the time that the truck was traveling very fast. We were about 150 feet from the Hampton Roads Avenue when this truck passed us.

We stopped in at Crystal Gardens to unload some beer. It seemed no time after we turned in until I heard the crash of the Army truck striking the motorcycle. I am sure the Army truck must have been traveling from 65 to 70 miles an hour, because it left us so fast even though we were driving better than 50. I later saw the scene of the accident and saw the very heavy skid marks made by the Army truck, and I also saw scratches and cuts in the center of the highway that were caused by the Army truck dragging the motorcycle.

GEORGE AMES.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid, do certify that George Ames has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

JOHN ABBITT, *Notary Public.*

My commission expires on the 17th day of February 1943.

A true copy.

RICHARD F. OBER,
First Lieutenant, Air Corps.

EXHIBIT J. AFFIDAVIT OF H. O. SCHEY

STATE OF VIRGINIA,

City of Newport News, to wit:

I, H. O. Schey, being first sworn the truth to speak, do depose and say:

That the pictures submitted with this claim, of the intersection of LaSalle Avenue and Kecoughtan Road, between Hampton and Newport News, Va., are true pictures taken at the scene of the accident on the same day.

H. O. SCHEY.

STATE OF VIRGINIA,

City of Newport News, to wit:

I, John Abbitt, a notary public in and for this State and city aforesaid, do certify that H. O. Schey has acknowledged his signature to the foregoing writing, this 10th day of June 1941.

JOHN ABBITT, *Notary Public.*

My commission expires on the 17th day of February 1943.

A true copy.

RICHARD F. OBER,
First Lieutenant, Air Corps.

EXHIBIT K. AFFIDAVIT OF E. W. COVINGTON

State of Virginia,

County of Elizabeth City, to wit:

I, E. W. Covington, being first sworn the truth to speak, do depose and say:

That I am a county police officer for the county of Elizabeth City, Va.; that I have been a police officer for the county since 1926; that on September 20, 1940, I arrived at the scene of the collision between an Army truck and a motorcycle very shortly after the collision had occurred. The body of the young man who was killed had not yet been removed from the scene of the accident. The Army truck had been pulled down from the point of the collision approximately 70 feet to the right-hand side of the road. The body of the young man had been thrown

approximately 25 feet from the point where his motorcycle was struck by the Army truck. The deep cuts in the cement road show that the motorcycle had been dragged for a distance of approximately 19 feet down the center of the highway. The scratches and marks were almost directly on the white line which was the center line of the highway. I examined the Army truck, to the extent of going underneath the truck, and I discovered that the three transmission cases had been in contact with something that had shortly before removed grease and dirt from these transmission cases. This I am satisfied was done when the Army truck dragged the motorcycle along the highway. The skid marks in the road were very heavy and in some places over a foot wide, and extended for a distance of about 40 paces. In my experience as a police officer I have had occasion to examine the scenes of accidents and to make estimates of speeds of the vehicles from the physical evidence available at the scene of the accident. I feel that a very conservative estimate of the speed of the Army truck which struck the motorcycle on this day would be at least 50 miles per hour.

The surface of the highway on Kecoughtan Road was dry, and it is a good cement road. A car could be stopped on this road as quickly as on any other road that I know of. It was about 4:15 in the afternoon when this accident occurred.

E. W. COVINGTON.

STATE OF VIRGINIA,
County of Elizabeth City, ss:

I, Edna C. Riddick, a notary public in and for this State and county aforesaid, do certify that E. W. Covington has acknowledged his signature to the foregoing writing, this 6th day of June 1941.

EDNA C. RIDDICK, *Notary Public.*

My commission expires on the 15th day of May 1945.

A true copy.

RICHARD F. OBER,
First Lieutenant, Air Corps.

EXHIBIT N

STATE OF VIRGINIA,
County of Elizabeth City, to wit:

An inquisition taken at Hampton, Va., in the county of Elizabeth City on the 24th day of October in the year 1940 before Paul J. Parker, M. D., a coroner of the said county, upon the view of the body of Wesley A. Coulter, Jr., there lying dead.

I hereby find that the said Wesley A. Coulter came to his death of a fractured skull, after an auto and motorcycle accident on October 20, 1940. The said auto being driven by Clyde B. Hazlett and motorcycle being operated by Wesley A. Coulter—unavoidable accident. I do not feel there was any criminal negligence.

In testimony whereof I have hereunto set my hand.

PAUL J. PARKER.

A certified true copy:

JAMES TRIMBLE KELLEY,
*Captain, Field Artillery, Air Corps Reserve,
Investigating Officer.*

